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In the Supreme Court of the United States

OCTOBER TERM, 1959

No. 403

MARINE COOKS & STEWARDS, AFL, a voluntary association, JAMES O. WILLOUGHBY, VIRGIL ROGERS and WILLARD RICHARDS,
Petitioners,

vs.

PANAMA STEAMSHIP COMPANY, LTD., a corporation, et al.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

Brief for Petitioners

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OPINIONS BELOW

The opinion of the Court of Appeals of April 6, 1959, (R. 140 to 152) is reported at 265 F.2d 780. The opinion of June 29, 1959, denying rehearing (R. 153 to 155) is reported at 268 F.2d 935.

JURISDICTION

The judgment of the Court of Appeals was entered on April 6, 1959 (R. 153). A timely petition for rehearing was filed on May 4, 1959, and was denied on June 29, 1959 (R. 153-155). Petition for a writ of certiorari was filed on September 14, 1959 and granted on November 16, 1959. The jurisdiction of this court is invoked under 28 U.S.C., Section 1254(1). The jurisdiction of the District Court was invoked under 28 U.S.C., Section 1331 on a claim that the matter in controversy arose under the laws of the United States.

QUESTIONS PRESENTED

Jobs of American seamen were lost and future employment jeopardized when a vessel of foreign registry chartered by American-owned interests but employing foreign seamen at a fraction of American pay entered into trade previously held by ships of American registry under contract with American unions. Upon arrival at the port of discharge the vessel was peacefully and non-fraudulently picketed while at anchor by a union representing employees whose jobs were lost and whose future jobs were thus jeopardized. Under such circumstances may a United States District Court exercising jurisdiction under 28 U.S.C., Section 1331 enjoin peaceful picketing of the foreign-registered vessel.

The following subsidiary questions are presented in determination of the ultimate question:

1. If such picketing be a maritime tort, may it be enjoined by the United States District Court or is jurisdiction of this admiralty cause of action lacking under the decision of this court in *Romero v. International Terminal Operating Co.*, 358 U.S. 354 (1959)?

2. May a United States District Court enjoin such peaceful, non-fraudulent picketing notwithstanding the provisions of the Norris-LaGuardia Act, 29 U.S.C., Sections 101-115; and the anti-injunction provisions of the Clayton Act, 29 U.S.C. Sections 52-53?

3. Is such peaceful picketing of a foreign vessel by an American union protesting the loss of employment to its members, resulting from the replacement of an American vessel by the foreign vessel, with its substandard wages, hours, and working conditions, a violation of the maritime law of the United States?

STATUTES INVOLVED

The Constitutional and statutory provisions involved are Article III, Section 2, Clause 1 of the United States Constitution; 28 U.S.C., Section 1331 upon which plaintiffs below predicated jurisdiction of the District Court; the Norris-LaGuardia Act, 29 U.S.C., Sections 101, 102, 104, 107 and 113; and the Clayton Act, 29 U.S.C., Sections 52 and 53. They are printed in Appendix A, infra, Appendix pages 1 to 6.

STATEMENT

On June 13, 1957, respondents (plaintiffs below) filed their complaint on the civil side of the United States District Court for the Western District of Washington, Southern Division, seeking damages and an injunction (R. 3-10). An order to show cause for preliminary injunction (R. 22-23) came on regularly for hearing on June 15, 1957, (R. 50 et seq.) and on June 19, 1957, findings of fact and conclusions of law were made by the District Court (R. 30-39) and a temporary injunction granted (R. 40-43).

The petitioner, Marine Cooks & Stewards Union, hereinafter sometimes referred to as MCS, was enjoined from picketing the *SS Nikolos* or any other vessel registered under a foreign flag and manned by an alien crew and owned, operated or chartered by the plaintiffs while in the Puget Sound area (R. 40-43).

The MCS, pursuant to certification of the National Labor Relations Board, represents employees of the Stewards Department on a large majority of vessels flying the American flag on the Pacific Coast (R. 24-25). Other petitioners are officers, or members of the MCS. On June 10, 1957, the *SS Nikolos*, flying the Liberian flag, arrived at Tacoma, Washington, with a cargo of salt for a chemical company at Tacoma, Washington (R. 32-33). The cargo of salt had been loaded at Black Warrior Lagoon on the Pacific West Coast of Mexico, a few hundred miles south of the United States border (R. 32). The *SS Nikolos* is owned by the Panama Steamship Company, Ltd., a foreign corporation (R. 31) and was time chartered to Seatankers, Inc. (R. 31), a foreign corporation wholly owned by National Bulk Carriers, an American corporation (R. 90). Another wholly owned foreign subsidiary of National Bulk Carriers, Transea Carriers, had contracted with the consignee of the salt, Hooker Electro-Chemical Company of Tacoma, Washington, for the transportation of salt from Black Warrior Lagoon to the Hooker plant at Tacoma (R. 89-90). Transea Carriers in turn had a contract of affreightment with Seatankers, Inc., (R. 90). Seatankers, Inc., had chartered the *Nikolos* from the North Atlantic & Gulf Steamship Company whose corporate status is not established (R. 90) which in turn had chartered the *Nikolos* from the Panama Steamship Company, a Liberian corporation (R. 90-91).

The master and the crew of the *SS Nikolos* were aliens, mostly Greek (R. 13). (See chart, Appendix B, Appendix p. 7, showing the relations between these various companies.)

The *SS Nikolos* pays less than one-fifth of the going wages under union contract (R. 26-27). As a result of the entry of the *SS Nikolos* into the trade from Mexico to Tacoma, Washington, vessels of American registry operated and manned under contract with the defendant MCS have lost or will lose such business with resultant loss of employment to members of the MCS (R. 36-37).

Upon arrival of the *Nikolos* in Tacoma, Washington, on June 10, 1957, a small outboard vessel named the *Will-O-Bee*, displaying a "Picket Boat" sign, approached the *Nikolos* at anchor (R. 59). Later an additional sign was displayed reading "AFL-CIO seamen protest loss of their livelihood to foreign-flag ships with sub-standard wages or sub-standard conditions" (R. 60). The *Will-O-Bee* was operated by petitioner James O. Willoughby, Seattle Port Agent of the MCS, who notified the master of the *Nikolos* that the MCS was picketing the ship (R. 33). The *Will-O-Bee* thereafter continued to picket by cruising around the *Nikolos* (R. 33).

There was no fraud or physical violence to persons or tangible property or threats thereof by the petitioners or any of them (R. 36). Petitioners did not claim to be acting in behalf of the crew of the *Nikolos* and no dispute existed between the foreign crew and their foreign employers (R. 14, 28).

As respondents pointed out in their brief in opposition (p. 2), petitioners also theatened the consignee of the cargo with establishment of a picket line at its dock if it allowed the *Nikolos* to berth there (Finding XI, R. 33). The consignee of the salt refused the ship a berth at its dock, tugs declined to assist the vessel to a berth, and the *Nikolos* was

forced to remain at anchor in the harbor (Findings XII, XIV and XV, R. 34).

The respondent owners or charterers, plaintiffs below, have entered into and are seeking other contracts of affreightment for carriage of like cargoes from Mexican ports to the United States ports in the Puget Sound area and to the particular consignee of this cargo (R. 35).

The District Judge was of the opinion that petitioners' conduct constituted unlawful interference with foreign commerce with a friendly foreign nation and that no labor dispute existed within the meaning of the Norris-LaGuardia Act (Finding XIII, R. 34, Conclusion II, R. 37, R. 122-3, 129).

The statutory basis for the jurisdiction of the District Court was not stated by the plaintiff nor the District Court.

The petitioner promptly after granting of the temporary injunction on June 19, [illegible], filed notice of appeal on July 1, 1957, and the case was argued before the Court of Appeals on January 15, 1958 and reargued on September 15, 1958.

The court below affirmed the order of the District Court despite the intervening decision of this court in *Romero v. International Terminal Operating Co.*, 358 U.S. 354 (1959). The Court of Appeals determined that an action on the civil side of a district court requesting an *equitable* remedy for a maritime tort may be brought under Section 1331 although an action seeking a common-law remedy on the maritime tort may not be brought on the civil side. The Court of Appeals further held that the prohibitions of the Norris-LaGuardia Act did not deprive the District Court of jurisdiction by reason of the holding of this court in *Benz v. Compania Naviera Hidalgo*, 353 U.S. 138 (1957).

Petitioners promptly sought rehearing which was denied on June 29, 1959.

SUMMARY OF ARGUMENT

The District Court believed the Norris-LaGuardia Act inapplicable because a foreign registered ship was picketed and the plaintiffs were foreign corporations. The District Court believed the conduct of the defendant union was unlawful interference with foreign commerce—"unlawful under the international obligations of the nations" (R. 129).

The basis for federal jurisdiction was not clarified until appeal where the Court of Appeals agreed with the contention of plaintiffs that federal question jurisdiction under Section 1331 was established because the conduct of defendants constituted a maritime tort. The Court of Appeals agreed also with the District Court that the Norris-LaGuardia Act was not applicable, believing the decision of this court in *Benz v. Compania Naviera Hidalgo, S.A.*, 353 U.S. (1957), 138, was controlling.

There is no claim that the Norris-LaGuardia Act makes any express exception for foreign corporations, nor do plaintiffs argue that foreign corporate businesses are immune from the procedural requirements of the Norris-LaGuardia Act.

The argument of the courts below and of plaintiffs is that a labor dispute within the meaning of the Norris-LaGuardia Act does not exist here because the dispute involved a foreign ship owned and operated by foreign corporations.

The union's picketing protested the economic invasion by the *Nikolos* into what had been an American trade, replacing an American vessel and putting some of the union's members out of work.

On a literal reading of the statute, this case involves and grows out of a labor dispute as defined in the Norris-LaGuardia Act. This court has held the Norris-LaGuardia

Act applicable to similar cases and has rejected a narrow and restricted interpretation of "labor dispute."[1]

This court has held the Norris-LaGuardia Act not applicable where the mandate of a later statute qualified the broad restrictions of the Norris-LaGuardia Act.[2]

This court likewise has held that in interpreting the Norris-LaGuardia Act and in determining the existence of a labor dispute within the meaning of that act, the Norris-LaGuardia Act and the Clayton Act are to be read together.[3]

The petitioners urge that the Norris-LaGuardia Act should be interpreted in the light of other federal statutes passed for protection of the American Merchant Marine. These laws evince a Congressional policy not to grant special privileges to foreign owned merchant vessels seeking to compete with American Merchant vessels.[4]

The *Benz* case is not controlling. The holding of that case is only that a foreign shipowner may recover damages for picketing which is unlawful under state law. The dispute there was between the foreign shipowner and a foreign crew. The dispute here is between an American union and a foreign shipowner. The federal remedy provided American employers under the Taft-Hartley Act was not available to the foreign shipowner in *Benz*. The chart attached to this brief (Appendix B, Appendix p. 7) graphically portrays the substantial American interest in the

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1. *New Negro Alliance v. Sanitary Grocery Co.*, 303 U.S. 552; *Milk Wagon Drivers Union v. Lake Valley Farm Products*, 311 U.S. 91.

2. *Textile Workers Union v. Lincoln Mills*, 353 U.S. 448; *Virginia R. Co. v. System Federation*, 300 U.S. 515; *Graham v. Brotherhood of Firemen*, 338 U.S. 232.

3. *U.S. v. Hutcheson*, 312 U.S. 219; *U.S. v. American Federation of Musicians*, 318 U.S. 741.

4. Merchant Marine Act, 46 U.S.C. § 861 et sequitur. Preference for American Vessels, 46 U.S.C. § 1241; 46 U.S.C. §§ 11, 13, 883.

present dispute, which was lacking in *Benz*. Furthermore, this court in later cases has held a state money damage remedy available despite the existence of a federal remedy.[5]

In any event, the *Benz* case does not deal at all with the Norris-LaGuardia problem. It holds only that the Taft-Hartley Act did not so preempt the field as to deny a damage remedy to a foreign shipowner for picketing unlawful under Oregon law. The foreigner had no federal money damage remedy provided to an American shipowner under the Taft-Hartley Act. Because the foreigner could not recover damages under the Taft-Hartley Act for unlawful picketing, he was allowed a commensurate remedy under Oregon law. The plaintiffs here seek a remedy denied an American shipowner and therefore seek not the same but preferential treatment from an American court.

Our argument on the jurisdictional point is easily stated. This court has held in *Romero v. International Terminal Operating Co.*, 358 U.S. 354 (1959) that federal question jurisdiction under 28 U.S.C. Section 1331 may not be predicated upon the assertion of a maritime tort. The effort to distinguish the *Romero* case because here the injunction remedy, not available in admiralty, is sought is unavailing. A similar argument was rejected in the *Romero* case, where the plaintiff sought a jury trial, not available in admiralty.

Finally, defendants urge that no federal law condemns as unlawful the conduct of defendant union in this case. The peaceful, truthful, nonfraudulent and nonviolent picketing of the *SS Nikolos* and the threatened picketing of an American employer to which the *Nikolos* cargo was consigned were lawful under the Clayton Act and may not be considered or held to be violations of any law of the United

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5. *Gonzales v. I.A.M.*, 356 U.S. 617, *Russell v. U.A.W., CIO*, 356 U.S. 634.

States (Clayton Act, 29 U.S.C. § 52). Neither the lower court, the Court of Appeals nor plaintiffs' counsel has cited any authority holding such conduct to be unlawful under federal law. The allegations of the complaint are that the conduct "was an unlawful and coercive conspiracy which violates the plaintiffs' maritime contractual rights in legitimate foreign commerce" and was an unlawful secondary boycott (R. 8). The argument made to the District Court and the Court of Appeals was that the conduct was unlawful as interference with foreign commerce. No authority is cited in support of this contention.

ARGUMENT

I. This Case Involves a Labor Dispute as Defined in the Norris-LaGuardia Act.

In any injunction proceeding against a labor union in a Federal Court to restrain peaceful picketing, at least three problems immediately present themselves:

1. Does the Norris-LaGuardia Act divest the court of power to grant an injunction?

2. On what ground is federal jurisdiction predicated and is the basis for jurisdiction adequately established?

3. Is the conduct sought to be enjoined unlawful and if so, under what law?

Isolation of each problem for separate consideration is difficult as all bear on the basic problem of the court's power to grant the relief requested.

We shall deal first with the applicability of the Norris-LaGuardia Act to the dispute between the parties. Petitioners contend that a labor dispute as defined in that act existed while respondents deny the existence of a labor dispute because petitioners picketed a foreign vessel employing a foreign crew. The entrance of the *Nikolos* into

the salt trade between Mexico and Tacoma, Washington, eliminated an American ship and jobs for petitioners' members. Petitioners' picketing peacefully protested the economic invasion of the *Nikolos* with its substandard wages, hours and working conditions.

The Norris-LaGuardia Act itself makes no exception in favor of foreign corporations nor do we understand respondents to argue that foreign corporations per se are not subject to the restrictions of the Norris-LaGuardia Act. In only one case has this court held the broad restrictions of the Norris-LaGuardia Act inapplicable solely on the ground of the parties involved.[8] In *U. S. v. United Mine Workers*, 330 U.S. 258, this court held the Norris-LaGuardia Act inapplicable to a case in which the United States as employer had taken over operation of the major portion of the country's mines and sought an injunction to restrain a strike. The court points out that the language of the Norris-LaGuardia Act made no express exception. The court says (p. 270-1):

> "By the Norris-LaGuardia Act, Congress divested the federal courts of jurisdiction to issue injunctions in a specified class of cases. It would probably be conceded that the characteristics of the present case would be such as to bring it within that class if the basic dispute had remained one between defendants and a private employer, and the latter had been the plaintiff below. So much seems to be found in the express terms of §§ 4 and 13 of the Act, set out in the margin. The specifications in § 13 are in general terms and make no express exception for the United States. From these premises, defendants argue that the restraining order and injunction were forbidden by the Act and were wrongfully issued."

The court then goes on to consider whether a controversy between the United States and its own employees could be

held to be a labor dispute within the meaning of the Norris-LaGuardia Act and concludes that no labor dispute existed. The arguments made in support of non-application of the Act to the United States as sovereign do not apply to a foreign plaintiff. In any event, respondents do not claim that statutes of the United States are not to apply to foreign corporations when they appear as litigants in American courts. Respondents in fact rely on Federal maritime law, both to establish the illegality of petitioners' conduct and the basis for Federal jurisdiction.

The question to be resolved, therefore, is whether or not under Sections 4 and 13 of the Norris-LaGuardia Act the present case involves or grows out of a labor dispute.

Subsection (a) of Section 13 of the Norris-LaGuardia Act provides that a case "shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft, or occupation; or have direct or indirect interests therein; * * * or when the case involves any conflicting or competing interests in a 'labor dispute' (as defined in this section) of 'persons participating or interested' therein (as defined in this section)." Subsection (b) characterizes a person or association as participating or interested in a labor dispute "if relief is sought against him or it and if he or it * * * has a direct or indirect interest therein." Subsection (c) defines the term "labor dispute" as including "any controversy concerning terms or conditions of employment * * * regardless of whether or not the disputants stand in the proximate relation of employer or employee."

These definitions, it is submitted, embrace the controversy here and classify it as one arising out of a dispute defined as a labor dispute.

The evidence shows that the controversy between the parties concerns terms and conditions of employment. MCS, the labor organization representing as collective bargaining agent some 5,000 members employed as unlicensed personnel in the steward's department aboard vessels engaged in the Pacific Coast shipping trade (R. 24-25), is vitally interested in the terms and conditions of employment prevailing on any vessel engaged in that trade. MCS believed that the substantially lower wages paid and inferior conditions maintained on foreign-flag vessels in comparison to the wages and conditions prevailing on American ships operating under union contracts presented a real and present threat to the job security of its members. Indeed, the entry of the *Nikolos* into the coastal trade resulted in the crew of the *Ira Nelson Morris*, including members of MCS, being laid off (R. 25-26). It is reasonably to be anticipated that continuation in this trade pursuant to the contracts for future carriage of similar cargo that have been entered into by the *Nikolos* or other vessels of appellees under foreign registry, will further adversely affect employment of MCS members. As the affidavit and testimony of Willoughby make clear (R. 25-26), and as the court found (R. 36-37), the use of foreign-registered vessels in the coastal trade has caused and will cause loss of business by vessels of American registry under contract to MCS, the necessary effect of which has been and will be loss of employment by MCS members.

Decisions of this court have rejected any narrow or restricted interpretation of the term "labor dispute". In *New Negro Alliance v. Sanitary Grocery Co.*, 303 U.S. 552, at 562-3, this court said that in the Norris-LaGuardia Act the Congress

> "* * * intended that peaceful and orderly dissemination of information by those defined as persons in-

> terested in a labor dispute concerning 'terms and conditions of employment' in an industry or a plant or a place of business should be lawful; that, short of fraud, breach of the peace, violence, or conduct otherwise unlawful, those having a direct or indirect interest in such terms and conditions of employment should be at liberty to advertise and disseminate facts and information with respect to terms and conditions of employment, and peacefully to persuade others to concur in their views respecting an employer's practices."

In that case, an organization of colored persons picketed an employer's establishment protesting the employer's refusal to hire colored clerks. The court answered the contention that this was not a labor dispute because "it did not involve terms and conditions of employment in the sense of wages, hours, unionization or betterment of working conditions," by referring to the definitions in Section 13 of the act and concluded that these definitions "plainly embrace the controversy" involved "and classify it as one arising out of a dispute defined as a labor dispute."

Milk Wagon Drivers' Union v. Lake Valley Farm Products, 311 U.S. 91, is particularly in point. There, the defendant union of milk wagon drivers picketed retail outlets that obtained their milk from dairies utilizing the so-called "vendor system" of distribution, claiming that the "vendor system" constituted unfair competition, depressed labor standards, and had resulted in less business for dairies employing drivers and loss of employment by drivers. In reversing the Circuit Court of Appeals which had held the activity enjoinable, this court said (*Id.* at pp. 98-9):

> "Whether rightly or wrongly, the defendant union believed that the 'vendor system' was a scheme or device utilized for the purpose of escaping the payment of union wages and the assumption of working

conditions commensurate with those imposed under union standards. To say * * * that the conflict here is not a good faith labor issue, and that therefore there is no 'labor dispute,' is to ignore the statutory definition of the term; to say, further, that the conditioned abandonment of the vendor system, under the circumstances, was an issue unrelated to labor's efforts to improve working conditions, is to shut one's eyes to the everyday elements of industrial strife."

The Norris-LaGuardia Act has been held inapplicable by this court in a number of cases in which the Norris-LaGuardia Act was only one of several federal statutes controlling the conduct of the picketing union and an injunction was deemed necessary to carry out the mandate of the other statute. In *Textile Workers v. Lincoln Mills*, 353 U.S. 448, this court upheld an order directing arbitration of a grievance pursuant to the requirements of the collective bargaining contract and held the Norris-LaGuardia Act inapplicable. The court states (pp. 457-8):

"The question remains whether jurisdiction to compel arbitration of grievance disputes is withdrawn by the Norris-LaGuardia Act, 47 Stat. 70, 29 U.S.C. § 101: Section 7 of that Act prescribes stiff procedural requirements for issuing an injunction in a labor dispute. The kinds of acts which had given rise to abuse of the power to enjoin are listed in § 4. The failure to arbitrate was not a part and parcel of the abuses against which the Act was aimed. Section 8 of the Norris-LaGuardia Act does, indeed, indicate a congressional policy toward settlement of labor disputes by arbitration, for it denies injunctive relief to any person who has failed to make 'every reasonable effort' to settle the dispute by negotiation, mediation, or 'voluntary arbitration.' Though a literal reading might bring the dispute within the terms of the Act (see Cox, Grievance Arbitration in the Federal Courts,

67 Harv. L. Rev. 591, 602-604), we see no justification in policy for restricting § 301(a) to damage suits, leaving specific performance of a contract to arbitrate grievance disputes to the inapposite procedural requirements of that Act. Moreover, we held in *Virginian R. Co. v. System Federation,* 300 U.S. 515 and in *Graham v. Brotherhood of Firemen,* 338 U.S. 232, 237, that the Norris-LaGuardia Act does not deprive federal courts of jurisdiction to compel compliance with the mandates of the Railway Labor Act. The mandates there involved concerned racial discrimination. Yet those decisions were not based on any peculiarities of the Railway Labor Act. We followed the same course in *Syres v. Oil Workers International Union,* 350 U.S. 892 which was governed by the National Labor Relations Act. There an injunction was sought against racial discrimination in application of a collective bargaining agreement; and we allowed the injunction to issue. The congressional policy in favor of the enforcement of agreements to arbitrate grievance disputes being clear, there is no reason to submit them to the requirements of § 7 of the Norris-LaGuardia Act."

No Federal statute evinces a Congressional policy to grant preferential treatment to foreign shipowners in an American port. No Congressional mandate requires that a foreigner be entitled to injunctive relief in an American court, or directs preference in our courts to foreign shipowners. Congress on the contrary has encouraged and protected the American Merchant Marine and has sought to restrict competition of foreign registered vessels. Congress has forbade foreign registered vessels to engage in the coastwise trade (46 U.S.C. §§ 11, 13, 883), and has required that at least 50% of all government cargo, and government personnel insofar as possible be carried on American ships (46 U.S.C. § 1241). The basic policy of the United

States to develop and encourage the American Merchant Marine is expressed also in the Merchant Marine Act, 46 U.S.C. § 861, et seq.

The established Congressional policy to favor the American Merchant Marine points to a conclusion that the Congress did not intend to exempt foreign shipowners from the requirements of the Norris-LaGuardia Act.

There remains for consideration the interpretation of this court's decision in *Benz v. Compania Naviera Hidalgo, S.A.*, 353 U.S. 138 (1957).

The *Benz* case and ours present entirely different problems. In *Benz*, plaintiffs sought damages while here they seek an injunction. In *Benz*, the picketing unions had no dispute with the foreign owners. In the present case the petitioners were vitally affected by the intrusion of the *Nikolos* with its substandard wages and working conditions in a trade previously employing petitioner's members. The petitioners by their picketing protested the effect on their membership of the economic invasion of the foreign registered *Nikolos* and by their picketing asked those in sympathy with them not to do business with the *Nikolos*.

An American corporation could not secure an injunction under the facts shown in this record. The foreign plaintiffs (one a wholly owned subsidiary of an American corporation) seek the protection of federal maritime law but desire exemption from the procedural limitations on the availability of the injunctive remedy which apply to American litigants. The *Benz* case imports no general grant of additional remedies for foreign shipowners not available to American shipowners.

The *Benz* case decided only one issue, the applicability of the Taft-Hartley Act, where it was claimed that the federal remedy provided by that law pre-empted a claim for damages.

The only other court case to our knowledge, in addition to the present one, which has interpreted the application of the *Benz* decision to the Norris-LaGuardia Act is *Afran Transport Company v. N.M.U.*, 169 Fed. Supp. 416 (S.D.-N.Y., 1958). District Judge Bryan there stated (p. 424):

> "The plaintiffs claim, however, that *Benz v. Compania Naviera Hidalgo*, 353 U.S. 138, and other cases, hold in substance that the provisions of the Norris-LaGuardia Act do not apply to them because their vessels, temporarily in American ports, are foreign ships operated entirely by foreign seamen. It does not seem to me that either the *Benz case* or the other cases cited by the plaintiffs so hold.
>
> "The *Benz case* merely held that the Taft-Hartley Act did not preempt the field of labor relations to the extent that a suit for damages for picketing of such a foreign vessel by an American union under local state law was forbidden. In the *Benz case* the Supreme Court was not dealing with an injunction. The question was merely whether the exclusive remedy of the aggrieved party, in this case the owner of a foreign vessel, was under the Taft-Hartley Act and therefore relief could not be sought under state law. The court held, in substance, that the Taft-Hartley Act was not applicable to wage disputes arising on foreign vessels between the nations of other countries when the vessel is temporarily within our territorial waters. It stated that an affirmative intention of Congress, clearly expressed, was necessary in order 'for us to run interference in such a delicate field of international relations.'
>
> "But it by no means held that the sweeping policy announced by Congress in the Norris-LaGuardia Act for the protection of American union activities from injunction should be withheld where there was a legitimate labor dispute merely because foreign vessels or crews were affected."

As pointed out by Judge Bryan, the narrow holding of the *Benz* case was that the Taft-Hartley Act did not so

preempt the field as to prevent a suit for damage for picketing of a foreign vessel by an American union which was unlawful under Oregon law. The only question was whether the exclusive remedy of the plaintiff was under the Taft-Hartley Act as contended by the defendant union. Decisions of this court since *Benz* have denied preemption and permitted a judgment for money damages for union conduct unlawful under state law even though a Taft-Hartley remedy was available. *Gonzales v. I.A.M.*, 356 U.S. 617, *Russell v. U.A.W., CIO*, 356 U.S. 634.

Furthermore, the National Labor Relations Board in *Peninsular & Occidental Steamship Co.*, 120 N.L.R.B. 1097 took jurisdiction over a foreign flag vessel with a foreign crew and directed an election where it appeared that substantial American interests were involved. In the present case the record as graphically summarized in the chart, Appendix B, Appendix p. 7, shows substantial American connection with the present dispute. It could well be therefore that the Taft-Hartley Act would apply to the facts of the present case. Certainly the American interests in this dispute are much greater than existed in the *Benz* case.

This court in the *Benz* case points out in the following extract that normally a foreign vessel entering an American port subjects itself to American laws and jurisdiction (353 U.S. at 142):

> "It should be noted at the outset that the dispute from which these actions sprang arose on a foreign vessel. It was between a foreign employer and a foreign crew operating under an agreement made abroad under the laws of another nation. The only American connection was that the controversy erupted while the ship was transiently in a United States port and American labor unions participated in its picketing.
>
> "It is beyond question that a ship voluntarily entering the territorial limits of another country subjects

itself to the laws and jurisdiction of that country. *Wildenhus' Case*, 120 U.S. 1 (1887). The exercise of that jurisdiction is not mandatory but discretionary. Often, because of public policy or for other reasons, the local sovereign may exert only limited jurisdiction and sometimes none at all. *Cunard S.S. Co. v. Mellon*, 262 U.S. 100 (1923). It follows that if Congress had so chosen, it could have made the Act applicable to wage disputes arising on foreign vessels between nationals of other countries when the vessel comes within our territorial waters. The question here therefore narrows to one of intent of the Congress as to the coverage of the Act."

The considerations which impelled this court to hold the Taft-Hartley Act inapplicable to the facts in the *Benz* case do not exist in this case. In *Benz* this court allowed a foreign shipowner a damage remedy under state law in place of a damage remedy under the Taft-Hartley Act which was held not available to him. However, if the Norris-LaGuardia Act is held inapplicable to a foreign shipowner, while applied when an American shipowner is plaintiff, a foreigner will be granted preferential treatment, not the same treatment, as an American.

Furthermore, since there was no substantive Federal labor law when the Norris-LaGuardia Act was passed, the existence or non-existence of other remedies was immaterial to Congress. Congress simply withdrew the Federal Court injunction as a form of relief. The Court of Appeals thought that since the respondents were denied the administrative remedies of the Taft-Hartley Act under the *Benz* decision, it was significant that the application of the Norris-LaGuardia Act would deprive respondents of a federal agency in which they could seek protection (265 F.2d at 787; R. 151). But the Norris-LaGuardia Act was

passed at a time when there was no federal administrative remedy available to any litigant in a labor matter. Nonetheless all such litigants were denied the right to injunctive remedies and were left to such other remedies as might be available.

Respondents contend that the remedy of a Federal Court injunction which was withdrawn from all other employers was by implication reserved to foreign employers. Had Congress intended to carve out a special class of litigants or a special class of employers who were to be entitled to a remedy which it denied broadly to all litigants, it easily could have said so.

In the Norris-LaGuardia Act Congress was regulating the District Courts, not the litigants or their rights. In the absence of Congress' expression to the contrary, there is no reason to assume that it regulated the District Courts in one respect for one class of litigants and in another respect for another class of litigants.

The reasoning of this Court in the *Benz* decision is wholly consistent with, and in fact supports, this approach. The Court indicated that the reason for holding the Taft-Hartley Act not applicable was that to do so would be to give it "foreign applicability". However, to give effect to the Norris-LaGuardia Act in the instant case, gives it no "foreign applicability" at all. Its application is limited to the confines of the jurisdiction of the United States District Court for it does not govern any relationship of the employer and the crew, nor any relationship between the employer and this union other than to say that the United States District Court may not issue an injunction in a labor dispute between them. To hold the Norris-LaGuardia Act applicable in the present case is to do no more than say that a foreign shipowner doing business in

the ports of the United States of America has no greater right to injunctive relief in the United States District Court in a case involving a labor dispute than an American shipowner. To so hold would not give the Norris-LaGuardia Act any "foreign applicability" as would have the application of the Taft-Hartley Act in the *Benz* decision.

No foreign shipowner could invoke the jurisdiction of the United States District Court and assert that because he is a foreigner he is entitled to imprisonment of the defendant for debt to collect a judgment or that he is immune to the defendant's interrogatories under the Federal Rules of Civil Procedure. Yet this would not differ in any respect from the position of the plaintiff shipowners in the case at bar that they are not subject to the limitations on remedies which are applicable to all other litigants in all other like cases.

The District Court was not as confident as the Court of Appeals that the *Benz* case was controlling. After saying that he doubted the applicability of the Norris-LaGuardia Act, the District Judge continued on to say that he believed he was justified in issuing an injunction under § 107 of the Act (R. 121, 122). (The Court was referring to 29 U.S.C. § 107, 47 Stat. 71). In this, of course, the District Court was in error because the instant case falls squarely within the total prohibitions of § 104 (29 U.S.C. § 104, 47 Stat. 70). Section 107 referred to by the Court is called into play only if there is some allegation or claim of violence, fraud or unlawful acts in the course of the dispute. *New Negro Alliance v. Sanitary Grocery Company*, 303 U.S. 552; *Taxi Cab Drivers v. Yellow Cab Operating Company*, 123 F.2d 262 (C.A. 10, 1941); *Wilson & Co. v. Birl*, 105 F.2d 948 (C.A. 3, 1939); *Brotherhood of RR Trainmen v. Cent. of Ga. RR.* 229 F.2d 901 (C.A. 5, 1956).

If the Norris-LaGuardia Act applies, the conduct of defendants was lawful under Federal law and an American shipowner could not secure an injunction. That the Clayton Act here makes the petitioners' conduct lawful is made abundantly clear by *U. S. v. Hutcheson*, 312 U.S. 219. In Footnote 1 to that opinion, the Supreme Court quotes the statute in full, the last sentence of which, referring to peaceful picketing, reads as follows:

> "* * * nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States."

The court said at pages 235-6, of that opinion:

> "The relation of the Norris-LaGuardia Act to the Clayton Act is not that of a tightly drawn amendment to a technically phrased tax provision. The underlying aim of the Norris-LaGuardia Act was to restore the broad purpose which Congress though it had formulated in the Clayton Act but which was frustrated, so Congress believed, by unduly restrictive judicial construction. This was authoritatively stated by the House Committee on the Judiciary. 'The purpose of the bill is to protect the rights of labor in the same manner the Congress intended when it enacted the Clayton Act, October 15, 1914, 38 Stat. L. 738, which act, by reason of its construction and application by the Federal courts, is ineffectual to accomplish the congressional intent.' H. Rep. No. 669, 72d Congress, 1st Session, p. 3. The Norris-LaGuardia Act was a disapproval of *Duplex Printing Press Co. v. Deering, supra*, and *Bedford Cut Stone Co. v. Journeyman Stone Cutters' Association*, 274 U.S. 37, as the authoritative interpretation of § 20 of the Clayton Act, for Congress now placed its own meaning upon that section. The Norris-LaGuardia Act reasserted the original purpose of the Clayton Act by infusing into it the immunized trade union activities as redefined by the later Act. *In this light § 20 removes all such allowable*

conduct from the taint of being 'violations of any law of the United States' including the Sherman Law." (Emphasis supplied.)

To the same effect is *U. S. v. American Federation of Musicians*, 318 U.S. 741.

In conclusion, therefore, it is respectfully submitted that the Norris-LaGuardia Act is applicable to the dispute between the parties in this case, that the *Benz* case is not authority to the contrary, and that under applicable Federal law the conduct of defendants was lawful. The injunction therefore should not have been granted.

II. The Decision of the Court of Appeals Is Directly Contrary to Romero v. International Terminal Operating Co., 358 U.S. 354 (1959).

There is no disagreement as to the following:

(a) If there is a cause of action in this case it is one for maritime tort.

The majority opinion of the Court of Appeals says:

"* * * [A]ppellees' cause of action is based on interference with maritime traffic on navigable waters and on interference with the performance of a maritime contract *constituting maritime torts.*" (Emphasis supplied.) (265 F.2d at 782; R. 144)

The concurring opinion in the Court of Appeals says:

"Here the relief sought was injunction *against a maritime tort.*" (Emphasis supplied.) (265 F.2d at 787; R. 152)

(b) Respondents' sole claim to jurisdiction rests upon the provisions of 28 U.S.C., Section 1331, giving the United States District Court jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States.

Respondents disclaimed any other basis of jurisdiction of the District Court.

The Court of Appeals noted in its opinion:

> "Appellee rests his claim of jurisdiction on 28 USCA § 1331. * * *" (265 F.2d at 782; R. 143)

(c) This court held in *Romero v. International Terminal Operating Co.*, 358 U.S. 354 (1959), that an action at law cannot be brought under Section 1331 on the civil side of a United States district court on a cause of action on a maritime tort.

The court below has concluded that an action on the civil side of the court requesting an equitable remedy rather than a common law remedy based on a maritime tort can be brought under Section 1331.

The court below reasoned that this is not a "case of admiralty and maritime jurisdiction" as that language is used in 28 U.S.C., Section 1333 or Article III of the Constitution but is instead a "case" in equity because an injunction is sought even though Federal question jurisdiction is predicated solely on a claim of maritime tort.

This court in *Romero* decided that if the suit involved a maritime claim, i.e., a maritime tort, it was a case of admiralty and maritime jurisdiction. This court specifically pointed out that this was so regardless of the remedy sought by the pleader. This language is to be found in footnote 23 to the majority opinion in the *Romero* decision.

> "All suits involving maritime claims, *regardless of the remedy sought*, are cases of admiralty and maritime jurisdiction within the meaning of Article 3 whether they are asserted in the Federal courts, or under the saving clause, in the state courts." (Emphasis supplied.) (358 U.S. at 367)

The court below failed to consider that there is no grant of jurisdiction, equitable or otherwise, to the United States

District Courts over "maritime torts" as such. The only grant of jurisdiction over maritime torts is in Section 1333, over "any civil case of admiralty or maritime jurisdiction." To deny that this is a "case of admiralty and maritime jurisdiction" is therefore to deny that it falls within any grant of judicial authority to the Federal courts.

The majority decision of the court below states:

> "We emphasize, this is not an action 'saved' from the exclusive jurisdiction of admiralty; it is one never cognizable in admiralty." 265 F.2d at 783.[6] (R. 145)

If this be so, the plaintiffs here had no Federal claim at all, for their only claim to Federal jurisdiction is that the case *is* cognizable in admiralty. This Court made this same observation in footnote 23 to the majority opinion in *Romero*, saying:

> "Without that Constitutional grant *Romero* would have no Federal claim to assert." (358 U.S. at 368)

In *Romero*, the plaintiffs sought a jury trial not available in admiralty and for that reason urged jurisdiction on the law side of the Federal Court where a jury trial would be available. Similarly, plaintiffs in our case seek an injunction not available in admiralty and base their claim for jurisdiction on the law side solely because only there may the remedy of injunction be given. Jurisdiction is not conferred in such a fashion.

The result reached by the court below is that if the remedy sought on a maritime tort is the equitable remedy of an injunction, the jurisdiction of the district court under

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6. On the contrary, equitable actions based on maritime claims have been held to be within the saving clause. *Moore v. Purse Seine Net*, 18 Cal. 2d 835, 837 and cases cited, affirmed sub nom, *C. J. Hendry Co. v. Moore*, 318 U.S. 133; *Oil Workers International Union v. Superior Court*, 103 Cal. App. 2d 512, 576-7. See also, note in 73 Harvard Law Review 84,141 (1959).

Section 1331 is different and greater than a similar action on the civil side of the court seeking a common-law remedy on a maritime tort. Congress made no distinction in Section 1331 between the jurisdiction of the court sitting in equity or sitting in law. The statute presently grants jurisdiction to the court of "all civil actions wherein the matter * * * arises under the * * * laws * * * of the United States." However, in the original Act of 1875, as quoted by this Court in the *Romero* decision (358 U.S. 354, 367), the Act granted jurisdiction over "suits of a civil nature at common law or in equity." The jurisdictional grant of the statute was identical as to actions in equity and at law. The change to the words "all civil actions" was made solely because of the adoption of Rule 2 of the Federal Rules of Civil Procedure abolishing the distinction between actions at law and in equity. See reviser's notes to 28 U.S.C., Section 1331.

A litigant asserting jurisdiction under Section 1331 must designate the "law of the United States" under which his suit arises whether the remedy sought be legal or equitable. In the *Romero* case, this Court has said that claims rooted in Federal maritime law are not cases arising under the laws of the United States within the meaning of Section 1331.

The respondents' claim to jurisdiction under Section 1331 therefore must fail, and the contrary decision of the Court of Appeals cannot be reconciled with the decision of this Court in the *Romero* case.

III. Petitioners' Conduct Was Not Unlawful.

The Court of Appeals declined to pass on petitioners' claim that their conduct which was enjoined by the District Court was not unlawful under federal law. Petitioners believe this question is fundamental to the whole case and

cannot be avoided. If petitioners' conduct was lawful an injunction should not have been granted.

The Court of Appeals appears to assume a violation of some federal law by the petitioners' peaceful picketing. The only direct reference to the problem in the opinion below is at page 782 of 265 F.2d (R. 144) where the court states that "appellee's cause of action is based on interference with maritime traffic on navigable waters and on interference with the performance of a maritime contract constituting maritime torts."

We have argued above (p. 23-4) that under the express provisions of the Clayton Act, petitioners' conduct was lawful. Respondents urge that the Clayton Act may not be relied on to determine the legality of petitioners' conduct because no labor dispute as defined in the Norris-LaGuardia Act exists and therefore neither the Norris-LaGuardia Act nor the Clayton Act are applicable. If the Clayton Act is not to be applied, respondents still must point to some statute or some line of authority holding petitioners' peaceful picketing to be unlawful. No federal case is cited by respondents or by the courts below condemning conduct similar to petitioners' as unlawful nor do petitioners know of any such case. As we have pointed out elsewhere in this brief, petitioners' objective in picketing the *Nikolos* was to protest the loss of employment of petitioners' members resulting from the replacement of an American vessel by the foreign vessel. The union's purpose and objective was to forward the economic interests of its membership and the means used were not unlawful. In the absence of other controlling authority the congressionally established policy found in the Clayton Act should govern in determining the legality of petitioners' conduct. It would be anomalous to hold inapplicable a statute expressing a congressional pol-

icy that conduct was lawful and to determine such conduct to be unlawful *per se* on the basis of federal common law.[7]

If petitioners' conduct was not unlawful under federal law, the injunction was improperly granted.

CONCLUSION

For the reasons stated it is respectfully submitted that the judgment of the court below should be reversed and the cause remanded to the District Court with instructions to vacate the temporary injunction and dismiss the action.

Respectfully submitted,

JOHN PAUL JENNINGS
J. DUANE VANCE
Counsel for Petitioners

Dated: January 7, 1960.

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7. The question of whether or not the right of petitioners to picket peacefully is constitutionally protected under the decision of this court in *A.F. of L. v. Swing*, 312 U.S. 568, was not argued before the District Court and is not argued here. Petitioners' counsel relied on the Norris-LaGuardia Act and the Clayton Act believing those statutes to be controlling.

(Appendices follow)

Appendix A

U. S. Constitution, Article III, Section 2, Clause 1. Subjects of jurisdiction.—The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between citizens of different States,—between citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

TITLE 28 U.S. CODE, SECTION 1331

Section 1331. *Federal question—Amount in controversy.*—The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of $3,000 exclusive of interest and costs, and arises under the Constitution, laws or treaties of the United States. (June 25, 1948, c. 646, § 1, 62 Stat. 930.)

NORRIS-LaGUARDIA ACT (TITLE 29, U.S. CODE)

Section 101. *Injunction prohibited except as herein provided.*—No court of the United States, as defined in sections 101-115 of this title, shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a case involving or growing out of a labor dispute, except in a strict conformity with the provisions of such sections; • • • (Mar. 23, 1932, c. 90, § 1, 47 Stat. 70.)

Section 102. *Public policy of United States.*—In the interpretation of this Act [§ 101 et seq. of this title] and in

determining the jurisdiction and authority of the courts of the United States, as such jurisdiction and authority are herein defined and limited, the public policy of the United States is hereby declared as follows:

Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection: therefore, the following definitions of, and limitations upon, the jurisdiction and authority of the courts of the United States are hereby enacted. (Mar. 23, 1932, c. 90, § 2, 47 Stat. 70.)

Section 104. *Grounds for injunction limited.*—No court of the United States shall have jurisdiction to issue any retraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person or persons participating or interested in such dispute (as these terms are herein defined) from doing, whether singly or in concert, any of the following acts:

* * * * *

(e) Giving publicity to the existence of, or the facts involved in, any labor dispute, whether by advertising, speaking, patrolling, or by any other method not involving fraud or violence; * * * (Mar. 23, 1932, c. 90, § 4, 47 Stat. 70.)

Section 107. *Hearing on sworn complaints* * * *.—No court of the United States shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, as defined in sections 101-115 of this title, except after hearing the testimony of witnesses in open court (with opportunity for cross-examination) in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court, to the effect—

* * * * *

(e) That the public officers charged with the duty to protect complainant's property are unable or unwilling to furnish adequate protection.

"Such hearing shall be held after due and personal notice thereof has been given, in such manner as the court shall direct, to all known persons against whom relief is sought, and also to the chief of those public officials of the county and city within which the unlawful acts have been threatened or committed charged with the duty to protect complaintant's property: * * * (Mar. 23, 1932, c. 90, § 7, 47 Stat. 71.)

Section 113. *What constitutes labor dispute—Participants—Courts included.*—When used in sections 101-115 of this title, and for the purposes of such sections—

(a) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft, or occupation; or have direct or indirect interests therein; or who are employees of the same employer; or who are members of the same or an affiliated organization of employers or employees; whether such dispute is (1) between one or more employers or associations of employers and one or more employees or associations of employees; (2) between one or more employers or associations of employers and one or more employers or associations of employers; or (3) between one or more employees or associations of employees and one or more employees or associations of employees; or when the case involves any conflicting or competing interests in a "labor dispute" (as defined in this section) of "persons participating or interested" therein (as defined in this section).

(b) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it is engaged in the same industry, trade, craft, or occupation in which such dispute occurs, or has a direct or indirect interest therein, or is a member, officer, or agent of any association composed in whole or in part of employers or employees engaged in such industry, trade, craft, or occupation.

(c) The term "labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(d) The term "court of the United States" means any court of the United States whose jurisdiction has been or may be conferred or defined or limited by Act of Congress, including the courts of the District of Columbia. (Mar. 23, 1932, c. 90, § 13, 47 Stat. 73.)

CLAYTON ACT (TITLE 29, U.S. CODE, SECTIONS 52, 53)

Section 52. *Statutory restriction of injunctive relief.*— No restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from pay-

ing or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States. (Oct. 15, 1914, c. 323, § 20; 38 Stat. 738.)

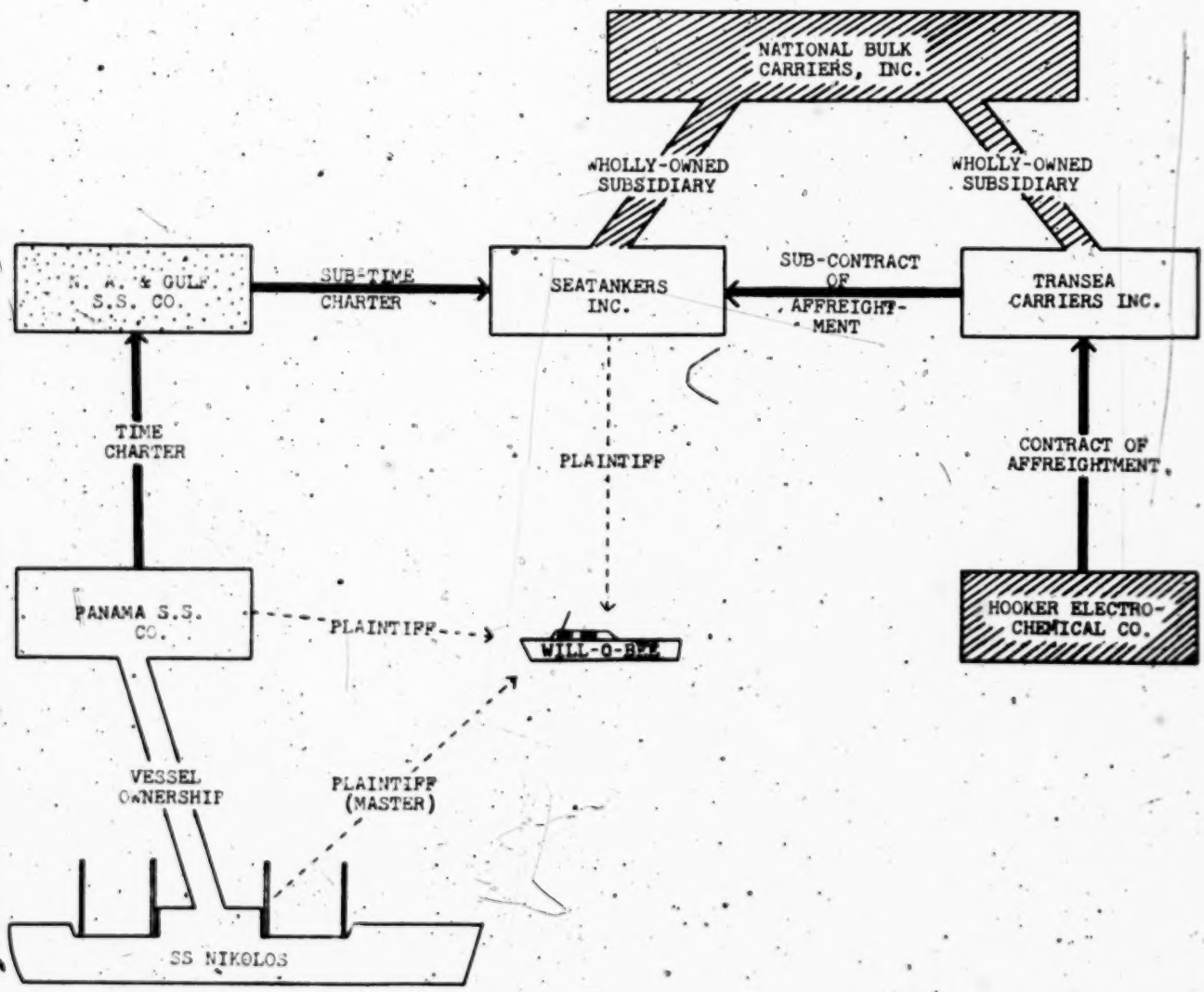
Section 53. *"Person" or "persons" defined.*—The word "person" or "persons" wherever used in this act [§ 52 of this title] shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country. (Oct. 15, 1914, c. 323, § 1, 38 Stat. 730.)

Appendix B

THE STRUCTURE OF THE LITIGATION

PLAINTIFFS: PANAMA S.S. CO., SEATANKERS INC., AND THE MASTER OF THE S.S. NIKOLOS

DEFENDANTS: MARINE COOKS & STEWARDS, AFL, AND THE INDIVIDUAL OPERATORS OF THE WILL-O-BEE



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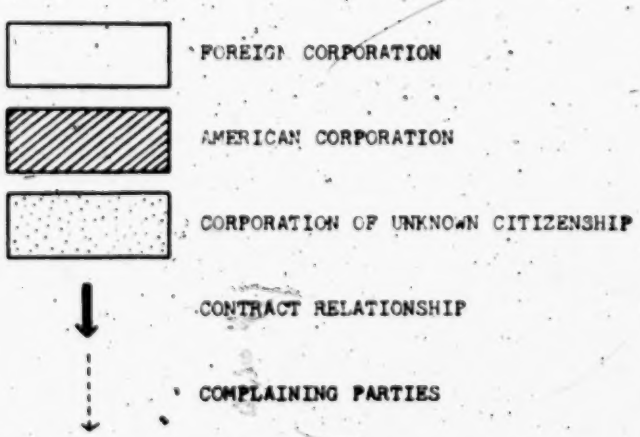

THE SS NIKOLOS IS OF LIBERIAN REGISTRY

Based on record references shown on pp. 4 and 5 of Brief.